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ANDRE MCCARTER
5333 BALBOA BLVD #127
ENCINO CA 91316

MAILED
JAN 23 2012
OFFICE OF PETITIONS

In re Patent No. 6,049,910	:	
Issue Date: April 18, 2000	:	
Application No. 09/294,528	:	DECISION ON REFUND
Filed: April 19, 1999	:	REQUEST
Title: Athletic Training Glove	:	
	:	

This is a letter transmitted via facsimile on December 2, 2011, which is being treated as a request for a refund.

The request for a refund is DISMISSED.

The above-identified patent issued on April 18, 2000. Therefore, the window for paying the second maintenance fee (\$1,180) extended from April 18, 2007 to October 18, 2007 without surcharge, and from October 19, 2007 to April 18, 2008, with an additional \$65 surcharge (which, together with the maintenance fee, would have totaled \$1,245). No maintenance fee and surcharge having been received in full on or before April 18, 2008, the patent expired on April 19, 2008.

Patentee filed a petition under 37 CFR 1.377 on June 6, 2008, explaining that he did timely submit \$1,215 on April 16, 2008, but that it was \$30 deficient. The petition was dismissed in a decision mailed on March 20, 2009, explaining that patentee did not submit the \$200 fee required for the petition. The decision also noted that a petition under 37 CFR 1.377 would need to demonstrate that the maintenance fee was timely paid **in full**. The two year deadline for filing a petition to accept the unintentionally delayed payment of the maintenance fee expired on April 18, 2010. Patentee filed a letter on April 15, 2010, requesting a "grace period" to allow him to file a petition to

accept the unintentionally delayed payment of the maintenance fee beyond two years after expiration. However, as the two year deadline is set by statute, it can not be waived. Accordingly, Patentee's request was dismissed in a decision mailed on July 19, 2010. Patentee filed a petition to accept the unavoidably delayed payment of the maintenance fee on February 28, 2011, asserting that he did not have the money to timely pay the maintenance fee. However, this petition was dismissed in a decision mailed on April 13, 2011.

Lastly, Patentee filed a request for reconsideration on June 10, 2011, this time asserting that because he was on strong narcotic medication for pain control, his decision making and reasoning were impaired, and as a result, he did not submit the proper amount due for the maintenance fee and surcharge. Because petitioner's contention was supported by a note from his treating physician, the petition was granted in a decision mailed on November 14, 2011.

Now, Patentee Andre McCarter has filed the instant letter "to help determine if [he] is eligible for any refunds." Chief among Mr. McCarter's reasons is that past decisions on petition contained errors in the amount due for the maintenance fee and surcharge. For example, past decisions have stated that \$1,180 was received from Mr. McCarter on April 16, 2008, when they should have in fact stated that \$1,215 was received. The Office apologizes for any confusion caused to Mr. McCarter after the expiration of his patent. Regardless of these errors in the petition decisions, the fact remains that Mr. McCarter was \$30 deficient on his maintenance fee (and surcharge) submission on April 16, 2008, which caused the patent to expire on April 19, 2008. \$1,245 was due (\$1,180 maintenance fee, \$65 surcharge); Mr. McCarter submitted \$1215. That Mr. McCarter was \$30 deficient is not in dispute. The burden is on the Patentee to know the amounts due and the schedule for paying the maintenance fees on his patents.

In view thereof, the request for a refund of the \$700 unavoidable petition surcharge is dismissed.

Telephone inquiries concerning this communication should be directed to the undersigned at 571-272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions